

REMARKS

Review and consideration of the claims are respectfully requested. The amendment is directed to better defining the present invention. Continued examination and consideration of claims 31-43 is respectfully requested.

The present invention concerns a disposable type cup or a cup holder that can be used, for example, in a movie theater to provide additional advertising space that is especially suited for a darkened environment. The cup and holder are provided with phosphorescent materials that when illuminated by external lighting means, such as a flashlight, desk lamp, ceiling lights, or other light source(s), will provide a glow-in-the-dark effect for an appropriate period of time. For example, the time period in a movie theater during which the projected advertisements and coming attractions are shown. In this way, the cup provides an advertising message or promotional message for an adequate period of time, fading away at an appropriate point, such as not to disturb those in the theater after the movie has begun.

The office action has rejected claims 16-30 under 35 U.S.C. Sections 102(b) and 103(a) based on Chien (U.S. Patent No. 5,980,060). Applicant respectfully notes that claims 16-30 have been cancelled and have been replaced by claims that better define the present invention.

Chien discloses a portable object, for example a watch or a heart monitor or a compass, each of which is typically worn on the wrist of the user by means of a fastening band. In Chien the band includes a "super thin" lighting element. The illuminating elements of Chien, including the "super thin" element, are specifically

designed to provide ornamentation to the band, for the enjoyment of the wearer (see col. 2, lines 20-34) and not for safety reasons, health reasons or advertising reasons. All of the illustrations of the device show ornamental and not advertising uses of the illumination means. Further, Chien does not disclose the use of illumination means on disposable beverage cups or holders and does not show the use of illumination to provide an advertising message. As a device of Chien will typically be a more expensive item, purchased with the idea of ornamentation, the use of advertising thereon would not be considered by a person having ordinary skill in the art. Further the use of such a watch or other item, is typically at the whim of the user, thereby providing little incentive to provide an advertising or promotional message thereon.

Also, with respect to the uses shown, Chien is more adapted to the use of an illumination device that is battery or otherwise self, powered. The use of luminescent materials that do not require electrical “contacts”, while briefly mentioned, does not necessarily mean that Chien is designed to have phosphorous elements that need to be illuminated by outside power sources. Instead, the device of Chien, where luminescent materials are used, may provide other means within the device, to illuminate those materials. As can be seen in several illustrations other glowing elements on a device made in accordance with the teachings of Chien, could be used to illuminate a luminescent strip in such a device.

In sharp contrast, the device as presently claimed, shows a phosphorous material on a disposable beverage container or holder for use to provide an advertising message or a promotional message. None of the art cited shows such a device. Further, the means to hold the beverage container, with a holder, to a seat in for example a movie

theater, is now clearly claimed. The band of a device made in accordance with the teachings of Chien is an integral part of the device and is used to hold the device to the wrist of the user. In sharp contrast, the clamp of the present invention is designed to releasably hold a beverage container (even a container not made in accordance with the teachings of the present invention). The container and clamp are not permanently held together, as are the watch and watch band of Chien.

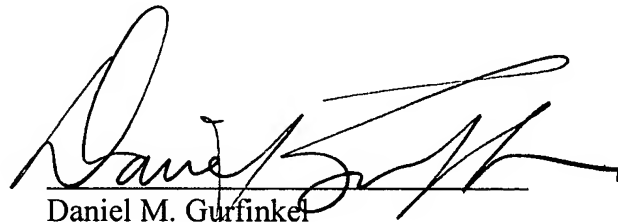
The use of a disposable beverage cup to provide a unique type of advertising message in the dark is a novel way of providing an extra source and location for messages during a time when such messages are welcome. The use of phosphorescent materials to provide the message allows the message to be shown for an appropriate period of time without annoying persons nearby at a time when an advertising message is unwelcome. Further, such materials are relatively inexpensive, easy to secure and form into the device. It is submitted that as presently claimed the present invention is novel and unanticipated. It is believed that a search that encompasses beverage cups has been done by the Examiner and that the references found do not teach the present inventions.

Applicant encloses herewith a petition for a one month extension of time and a check to cover the fee for the extension. Applicant believes that there is no other fee due in connection with this response. If, however, there is a further fee due the Commissioner is hereby authorized to charge the unpaid amount, or credit any overpayment, to Deposit Account No. 23-0920. If a further or different petition is required, Applicant respectfully requests that this paper be considered such a petition and that the fee for any further petition be charged to the above noted deposit account.

Further prosecution is respectfully requested. Reconsideration of the application and a review of the new claims is respectfully requested. A sincere effort has been made to overcome the Examiner's rejections and to place the application in allowable condition. Applicant invites the Examiner to call Applicant's attorney to discuss any aspects of the invention that the Examiner may feel are not clear or which may require further discussion.

In view of the foregoing remarks and amendments, it is believed that the subject application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel M. Gurfinkel', written over a horizontal line.

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